

Escaping from Penitentiary.

An. Code, 1924, sec. 138. 1912, sec. 121. 1904, sec. 111. 1888, sec. 81. 1809, ch. 138, sec. 2. 1837, ch. 320, sec. 18. 1927, ch. 374.

149. If any offender or person legally detained and confined in the Penitentiary, or Jail, or House of Correction, or Reformatory, or Station House, or any other place of confinement, in this State, shall escape, and if any keeper, deputy, assistant keeper or other person shall aid or assist in the escape of any offender or person detained and confined, as aforesaid, he shall, on conviction thereof by the Criminal Court of Baltimore or by the Circuit Court of the County in which the escape takes place, be sentenced to such confinement in the Penitentiary, or Jail, or House of Correction, as the Court may adjudge, for not more than ten years.

See sec. 743, *et seq.*

False Pretenses.

An. Code, 1924, sec. 139. 1912, sec. 122. 1904, sec. 112. 1888, sec. 82. 1835, ch. 319, secs. 1, 2.

150. Any person who shall by any false pretense obtain from any other person any chattel, money or valuable security, with intent to defraud any person of the same, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be punished by fine and imprisonment, or by confinement in the penitentiary for not less than two years nor more than ten years, as the court shall award; provided always, that if upon the trial of any person indicted for such misdemeanor it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny or robbery, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried upon such misdemeanor shall be afterwards liable to be prosecuted for larceny or robbery upon the same facts; and provided also, that a mere promise for future payment, though not intended to be performed, shall not be sufficient to authorize a conviction under this section.

Indictment and conviction under this section of obtaining money under false pretenses sustained. *Deibert v. State*, 150 Md. 689.

The offenses of obtaining money by false pretenses and larceny may be joined. Upon conviction for false pretenses, court competent to impose sentence for three years. *Simmons v. State*, 165 Md. 166, 170.

Secs. 150-159 cited in sustaining indictment under sec. 184. *State v. Coblenz*, 167 Md. 529.

While in indictment under this section the false pretenses intended to be relied upon need not be set out, indictment in other respects must fully inform accused of the charge, must enable the court to determine whether facts alleged constitute a crime and must protect traverser against further prosecution for same offense. This section deals with a subsisting security and not merely the obtention of a signature to instrument. The ownership of property or securities should be distinctly alleged, and also that bill of sale or chattel mortgage was assigned or transferred to traverser by owner, or that something passed to traverser more than mere paper writing. *State v. Blizzard*, 70 Md. 390.

A prosecution involving giving of worthless check may still be had under this section, notwithstanding sec. 152. An intent to defraud is necessary under both sections; under this section the burden of showing such intent is on the state, while under sec. 152 burden shifts to the defendant. Evidence. *Lyman v. State*, 136 Md. 47.

Indictment is insufficient which, in describing the check alleged to have been used as a false pretense, does not merely follow the language of the statute but refers indefinitely to and omits any allegation as to nature or ownership of the "credits, goods and wares." *Armocost v. State*, 133 Md. 291.

An indictment under this section upheld; see secs. 651 and 654. *State v. Edwards*, 124 Md. 594.

An indictment under this section for obtaining "current money" is sustained by proving the obtention of a check for the sum charged, the check being the means by which the money was procured. *Schaumloeffel v. State*, 102 Md. 474.